

MEMORANDUM OF UNDERSTANDING
Between the White House Office of Records Management and
the United States Secret Service Records Management Program
Governing Records Generated By the White House Access Control System

INTRODUCTION

1. This MEMORANDUM OF UNDERSTANDING between the White House Office of Records Management ("White House") and the United States Secret Service Records Management Program ("the Secret Service") (collectively, "The Parties") memorializes and confirms the agreement governing the status and handling of records generated through the White House Access Control System.

DEFINITIONS

2. The White House Access Control System ("WHACS") includes two interrelated systems used by the Secret Service for controlling and monitoring access to the White House Complex:
 - a. The Worker and Visitor Entrance System ("WAVES");
 - b. The Access Control Records System ("ACR").
3. "WHACS Records" include "WAVES Records" and "ACR Records."
4. "WAVES Records" consist of records generated when an authorized White House pass holder submits to the Secret Service information about visitors (and workers) whose business requires their presence at the White House Complex.
 - a. WAVES Records include the following information submitted by the pass holder: the visitor's name; the visitor's date of birth; the visitor's Social Security Number; the time and location of the planned visit; the name of the pass holder submitting the request; the date of the request.
 - b. Once a visit takes place, WAVES Records are typically updated electronically with information showing the actual time and place of the visitor's entry into and exit from the White House Complex.
5. "ACR Records" consist of records generated when a White House pass holder, worker, or visitor swipes his or her permanent or temporary pass over one of the electronic pass readers located at entrances to and exits from the White House Complex.

EXHIBIT

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- a. ACR Records include the following information: the pass holder's name and badge number; the time and date of the swipe; and the post at which the swipe was recorded.
- 6. "Federal Records" mean documentary materials subject to the Federal Records Act (44 U.S.C. § 3301 et seq.).
- 7. "Presidential Records" mean documentary materials subject to the Presidential Records Act (44 U.S.C. § 2201 et seq.).
- 8. "The White House Complex" means the White House and the Eisenhower Executive Office Building, and the secured grounds encompassing them, and the New Executive Office Building.
- 9. The "White House Office of Records Management" ("WHORM") means the office in the White House responsible for preserving Presidential Records.

BACKGROUND

- 10. WHACS is operated by the Secret Service in order to control and monitor the entry and exit of persons into and out of the White House Complex.
- 11. The information contained in WHACS Records originates with White House pass holders, visitors, and workers as a result of White House business.
 - a. Such information reflects the conduct of the President's business by providing details about the comings and goings of staff, workers, and visitors to the White House.
- 12. The authorized White House pass holders provide information contained in WAVES Records to the Secret Service temporarily for two limited purposes:
 - a. To allow the Secret Service to perform background checks to determine whether, and under what conditions, to authorize the visitor's temporary admittance to the White House Complex;
 - b. To allow the Secret Service to verify the visitor's admissibility at the time of the visit.
- 13. Once the visit ends, the information contained in WAVES Records and ACR Records has no continuing usefulness to the Secret Service.
- 14. It has been the longstanding practice of the Secret Service to transfer WAVES Records on CD-ROM to WHORM every 30 to 60 days. Except as noted in paragraph 16 below, once the Secret Service transferred the WAVES Records, the Secret Service ensured that those records were erased from its computer system.

- a. Under this practice, the Secret Service has retained WAVES Records for completed visits for only a brief period, and solely for the purpose of facilitating an orderly and efficient transfer of those records to WHORM.
15. The Secret Service historically has retained ACR Records in its computer system without transferring those records to WHORM. In 2004, however, the Secret Service and the White House recognized and agreed that ACR Records should be treated in a manner consistent with the treatment of WAVES Records, and concluded that ACR Records should be transferred to WHORM and eliminated from the Secret Service's files. The Secret Service has continued to maintain ACR Records pending a legal determination of their status as Presidential Records.
16. In October 2004, at the request of the National Archives and Records Administration ("NARA"), the Secret Service began retaining its own copy of the WAVES Records that it transferred to the White House.
 - a. The Secret Service agreed to NARA's request on the understanding that it would be a temporary practice maintained until a legal determination was made confirming the propriety of handling WHACS Records as Presidential Records.

UNDERSTANDING AND AGREEMENT

17. The purpose of this Memorandum of Understanding is to express and embody The Parties' understanding and agreement that WHACS Records whenever created:
 - a. are at all times Presidential Records;
 - b. are not Federal Records; and
 - c. are not the records of an "agency" subject to the Freedom of Information Act (5 U.S.C. § 552).
18. The Parties understand and agree that all WHACS Records are at all times under the exclusive legal custody and control of the White House.
 - a. Although the Secret Service may at times have physical possession of WHACS Records, such temporary physical possession does not alter the legal status of those records, and does not operate in any way to divest the White House of complete and exclusive legal control.
19. The Parties understand and agree that any information provided to the Secret Service for the creation, or in the form, of WHACS Records is provided under an express reservation of White House control.

20. The Parties understand and agree that the White House, but not the Secret Service, has a continuing interest in WHACS Records and that the White House continues to use the information contained in such records for various purposes. Specifically:
 - a. WAVES Records have historical and other informational value to the White House as evidence of who has been invited and/or granted admission to the White House to meet with the President or members of his staff.
 - b. ACR Records have historical or other informational value to the White House, as evidence of the comings and goings of staff, visitors, and workers at the White House Complex in the conduct of White House business.
21. The Parties understand and agree that, once a visitor's visit to the White House Complex is complete, the Secret Service has no continuing interest in preserving or retaining WAVES Records. The Parties also understand and agree that the Secret Service has no interest whatsoever in preserving or retaining ACR Records.
 - a. WHACS Records are therefore not appropriate for preservation by the Secret Service either as evidence of the Secret Service's activities or for their informational value.
22. The Secret Service understands and agrees that it will regularly transfer all WHACS Records in its possession to WHORM, and that it will not retain its own copies of any WHACS Records except as is necessary to facilitate the transfer of those records to WHORM.
 - a. Any temporary retention of WHACS Records by the Secret Service after the visit, entrance, or exit memorialized by those records is solely for the purpose of facilitating an orderly and efficient transfer of those records, and does not operate in any way to divest the White House of complete and exclusive legal control.
23. The understandings and agreements expressed herein apply to:
 - a. Any and all WHACS Records currently in the possession or custody of the Secret Service;
 - b. Any and all WHACS Records that may be generated at any time subsequent to the execution of this Memorandum of Understanding.
24. It is specifically intended by The Parties that the understandings and agreements set forth herein serve as evidence that the White House at all times asserts, and the Secret Service disclaims, all legal control over any and all WHACS Records subject to this Memorandum of Understanding.

- a. The foregoing is not intended, and should not be construed, to suggest that WHACS Records in the possession or custody of the Secret Service before the execution of this Memorandum of Understanding were under the legal control of the Secret Service.



Director, White House Office
of Records Management



Chief Records Officer,
United States Secret Service

Dated: 5-17, 2006